

proper financing if such concessions from the agency are not forthcoming. In sum, the large companies state that they cannot afford to bring the new networked or digital or wide-area or whatever services to the market if they are forced to employ conventional means in accord with the Commission's Rules. Yet, the agency has failed to recognize that this same argument, if applied to smaller business, is magnified. If a large business cannot grow properly in a given regulatory environment, the impact on small business must necessarily be greater. The Commission's Orders which have granted such concessions take little time exploring this obvious extension of the arguments presented and the outcome has been disastrous for small business. Following the grant of forbearance, the Commission has taken no time to determine what effect its action has had on the competitiveness of small business which is not financially able to seek similar advantages, but which must now compete with an entity that has freedom from strict regulation.

In the case of 800 MHz channels, small operators were made to suffer an almost instantaneous scarcity of spectrum. Soon thereafter, the FCC issued the August 1994 freeze, which applied only to small operators and let continue the growth of large companies which operated under wide-area waivers. The difference in enforcement of the Commission's freeze order was so unfair, so biased, toward large operators, and so detrimental to the continued growth of small, established businesses, that the terms of the freeze can be fairly viewed as the most anti-small business decision ever rendered by the agency. If the Commission's statements within this proceeding are to be believed in the expressions of concern for small business and

its continued growth, the Commission can take a giant, first step toward credible recognition of the needs of small business by lifting immediately its freeze order.

To survive and thrive, small business requires relatively little. The strength of the individuals who create and run small business is so great that collective whining about its ability to obtain financing is rarely heard. Rather, small business adjusts its business strategy to meet its financial capacity, not demanding that the agency alter its management of the spectrum to fit an individual small business strategy.<sup>27</sup> It does not seek broad waivers and a partnership with the agency to achieve success. What it does require, however, is an equal opportunity to succeed alongside larger competitors. This basic need is not met when the agency provides greater advantages to large companies than it provides to smaller firms.

SBT respectfully suggests that the Commission's rules not be created or enforced in an unequal manner. No special concession should be provided for large companies which tout even larger plans. Operators of all size should be held to their promises and the language of the Commission's rules. The Commission should not, in effect, guarantee the success of large companies at a cost which includes the competitiveness of small business. In the present

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<sup>27</sup> On those occasions when a small business has argued for a specific waiver of the Commission's rules based on its inability to raise financing, the often heard response from the agency is that the request does not meet the Commission's rules, since the existence of a small business with financial difficulties, "does not present unique circumstances which would justify a waiver of the Commission's rules." Taken to its illogical extension, this common reply would provide a justification for large businesses seeking a waiver for equal reasons, since a claim from a large business that it lack financial resources might be deemed "unique circumstances." That is, until the Commission receives a flow of dozens of waiver requests from large companies, all claiming financial difficulty and seeking forbearance for this very reason.

environment, a large company which promises by application to construct five hundred base stations is far less likely to lose its authority to operate a single facility in its "system"; than a small operator who only promised to build a single community repeater.<sup>28</sup> The stark contrast in enforcement of the Commission's rules is quite disturbing and should be rejected by the Commission as an arbitrary use of its enforcement authority, which employs size as a mitigating factor in determining whether a particular licensee has demonstrated adequate fidelity to the Commission's rules.

If any forbearance or waiver of the Commission's rules is to be forthcoming, the Commission should demonstrate greater tolerance for small business, rather than large. Small business has limited means which often has an impact on its ability to timely comply with the Commission's rules. Extended implementation to build a single SMR-trunked facility by a small business makes greater sense as a recognition of actual need than an extended implementation schedule for a nation-wide paging system. It would appear that a company of sufficient size to realistically claim the ability to construct a large regional system would also possess the resources to do so in a timely manner. It would also make good common sense if the agency declared that persons which overfill their license plate in a gala of authorized gluttony be held to pay for their order. No such restraint exists today and the entire segment of small business suffers for it.

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<sup>28</sup> This fact is apparent when one reviews the Commission's mechanical use of construction inquiries for small business, but does not employ any equal method for nation-wide licensees or for licensees of systems which are subject to extended implementation schedules.

SBT avers that many of the problems suffered by small business which create repeated barriers to entry and growth arise out of the Commission's unwillingness to devote resources to the often mundane task of simply enforcing its rules in an even-handed, legally supportable manner. Without a commitment to support fidelity to its rules, business strategies are stymied, costs skyrocket, profitability is threatened, interference is suffered, spectrum lies fallow within warehouses run by large concerns, and the agency grows increasingly less responsive to the individual problems suffered by small operators which are simply seeking relief to continue their operations. Enforcing the Commission's rules has become unfortunately passé, almost quaint, like patriotism. It has been replaced by the desire to boost revenues for the U.S. Treasury, the articulated need to create the Information Superhighway, and an agenda which is so forward thinking that it has ignored the long-established commitment to the public receipt of services delivered daily by small competitors. Now, bigger is better and to hell with the "petty" problems suffered by small business that clog the Commission's docket. The Commission's resources should be applied far more generously to those petty problems, if the Commission is sincere in wanting small business to survive in this industry.

### **Application Processing**

The most typical method of entering the telecommunications industry in a manner which is within the jurisdiction of the agency is to file an application for authority to provide telecommunications goods and services. The rules which exist for the prosecution of those applications appear entirely even-handed in the main, but the problems suffered by small business under those rules create additional barriers to entry that the Commission has failed to

recognize. Certainly, the trend of the agency has been to divert its resources away from this vital function and apply it to creation of systems which might eliminate, to some degree, the need for certain forms of licensing. However, a review of the methods chosen by the agency demonstrates that the presently preferred methods favor the class of largest operators over small.

Small operators are often licensed under the Private Radio Services, some of which have been recently re-designated CMRS. The application is sent to a frequency coordinator, whose pricing structures are without Commission oversight. SBT knows of no instance where a coordinator was convinced to accept less money for coordination of an application due to Commission intervention. One could conclude that the agency's lack of involvement in this area is due to the coordinators' collective good faith in setting prices for services. However, a more rational interpretation of the history of coordination would be that the agency has simply decided not to get directly involved in regulating a system of which the agency is the primary beneficiary.

The coordinating agencies are subject to forms of influence in their operations. Any coordinating agency which chooses to deny this fact may do so at their own peril, since the record is extremely clear. Some coordinators are more affected than others, depending on the constituency to be served. SBT will not bother to rank or articulate the many instances where such influence has affected the outcome of a coordination decision, but the existence of the influence is well known throughout the small business community. It is also to be expected by anyone who is not laboring under the worst form of naivete.

The sources of such influence are invariably the largest operators which can afford to be active in supporting the coordinating entities through large dues payments and service on boards of directors. In the public safety arena, it is often a large state government. On the business and industrial side, the influential members read like a list of the Fortune 500. Regardless of the sources, the influence occurs and it has a recognizable effect on the outcome of coordination decisions. Therefore, if a small business' application is contrary to the articulated strategy of the influential board member of a coordinating entity, it is not unusual for coordination to be denied or limited or severely delayed. Some of the coordinating entities have fought quietly against this problem, recognizing the adverse consequences for small business or small governmental units which rely on the impartiality of the system. Other coordinating entities have done little or have actually fostered this biased attitude.<sup>29</sup>

Given the history of monopoly frequency coordination, the members of SBT are quite concerned with the path the agency is taking to eliminate its licensing burden. The Commission appears to be moving toward greater privatization of licensing, increasing the involvement of coordinating entities, and thereby risking increases in problems suffered due to bias against small business and in favor of larger influential concerns. SBT also notes that such action by the Commission will likely increase costs to small business to be paid to coordinating entities

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<sup>29</sup> In those circumstances where small business has challenged the coordinator due to its support of a favored person or entity, the small business is forced to bear the cost of litigation and delay arising out of improper actions taken by the coordinator. SBT suggests that the Commission should devise a method of reimbursement for these kinds of adversely affected operators, enabling each to recover the cost of litigation from coordinators which breach their duties in the performance of their functions.

for increased services. It should not escape the agency's notice that the coordinating entities charge far more for their services than the Commission does for its services. The reason for this disparity is obvious. The Commission's charges are subject to review by Congress, which limits the size of increases and which began with a goal of assuring that costs would not hamper active involvement by small entities. No such oversight or review or goal motivates the activities of coordinating entities.

Presently, channels exist for licensing in many markets which require coordination by up to five sharing coordinating entities, each which must provide concurrence in the proposed use. To achieve a single license, a small business operator would have to be willing to pay the cost of five coordinations, which total cost is likely to exceed two thousand dollars. Add to that cost the cost of preparation, filing and construction of the system, and the small business operator is likely to reject any notion regarding use of the frequency, not because it is not the most suitable for the proposed operation, but simply because the cost of coordination is out of reach.

Problems continue to abound for small business which are a direct result of the Commission's refusal to devote resources to oversight of the coordination function. Yet, this refusal to demand impartiality from coordinating entities results in a tangible barrier to entry for small business. It places small business at the mercy of coordinating entities which are sometimes motivated only by a self-serving agenda, rather than by one that would promote equal treatment for all seeking coordination services. The problem is merely exacerbated when the

Commission "rubber stamps" the alleged recommendations of coordinating entities for the purpose of creating licenses. Nothing contained within the Commission's rules suggests that a recommendation provided by a coordinator should be deemed appropriate, but for a challenge from an interested party. The Commission's public notice processes are insufficient to inform interested parties to justify the continuation of this presumption.

That greater oversight is required to protect the Commission's processes has been made wholly clear over the last few years. The Commission may only consider that the huge flow of applications received by the Commission from application mills that fleece the American public were, by in large, coordinated. Would it have been outside of the coordinators' collective authority to take steps to stem the flow of these applications and, thereby, salvage the Commission's resources while preserving opportunities for legitimate operators? SBT believes that the Commission should devote resources to oversight of coordinators to prevent this type of abuse of the Commission's processes.

SBT does not intend to suggest that the application processing system's problems are reserved to frequency coordination entities. As noted in the Petition For Special Relief filed on June 25, 1996, challenging the Commission's acceptance and grant of hundreds of applications filed by ESMR operators which appeared to be wholly defective and subject to little more consideration than a dismissal letter, the Commission's involvement in the acceptance, processing and grant of applications in unequal ways might be equally problematic. The aforementioned petition suggests that the agency's treatment of applications sometimes favors



large entities over the rights of smaller concerns. This is not the first instance where such problems have surfaced. One need only remember the concerns expressed by many members of the public regarding the prosecution of applications filed by OneComm, Inc. in 1994 to recall another instance where the FCC might have obviously erred on behalf of a large, publicly-traded applicant.

The vexatious nature of the agency's application processing is not in the rules. By and large, the rules appear to favor no applicant over another and certainly no rule exists which excludes consideration of applications filed by small business. However, the practical application of the Commission's rules or the "policies" which are never articulated within the Commission's rules, again and again appear to favor the largest entities. Such actions by the agency provide to the industry an impression of favoritism which is most distressing and which should quickly be eliminated. Already, the evidence suggests that the growing distrust of the agency arising out of unequal outcomes among like applicants (save for the size of each's resources) threatens to chill the continued growth and participation of small business. Most telling are those situations where a small applicant's single channel system application is rejected in favor of a multi-channel application from a large operator which is seeking and subsequently receives waivers of the Commission's rules, which waivers would not be available to the smaller operator. This type of unequal playing field among operators should be eliminated and each applicant, regardless of size, should be provided with equal access to the Commission's application processes.

## **Electronic Application Filing**

The Commission needs to be more considerate of the needs of small business in its plans and provisions for electronic filing of applications and access to information, particularly the procedures to be employed by the Wireless Telecommunications Bureau. On June 4, 1996, the Commission released a Public Notice, titled, "NOTIFICATION OF CHANGE TO PUBLIC REFERENCE PROCEDURES AT WIRELESS TELECOMMUNICATIONS BUREAU'S GETTYSBURG OFFICE". In that Public Notice, the Commission described the program and procedure which the public must use either to file an application electronically or to review applications on-line. The Commission's program and the means provided for the public to obtain the program do not demonstrate sufficient concern for the needs of small business.

To run the program, the Commission specified the use of a central processing unit which is at least an Intel 80486, or above, with a Pentium™ CPU recommended. The Commission specified a minimum random access memory availability of 16 MB, and a v.32bis 14.4kbps Hayes compatible modem, together with a VGA or above monitor and a mouse or other pointing device. The Commission specified the use of only a top-of-the-line, state of the art computer. However, the installed base of computers in the hands of small business includes very few such advanced machines. Would that such machines were as free as the air, but they are not, and many small businesses cannot justify the cost of such high level machines for any other purpose.

The Commission would meet the needs of small business far better by designing a program which can be run using an 80386 CPU, using 4 megabytes of RAM, a 2.4kbps modem,

a monochrome monitor, and which does not require a mouse or other pointing device. Put another way, the Commission's programming should aim for the lowest common denominator among installed equipment in the "target market", rather than designing a program which can be run on only a "gold plated" machine.

The program requires 18 MB of available hard disk space, which seems like an excessive burden to place on thousands of small businesses. The program would not appear to have been designed with economy of end user storage, and, in particular, economy of storage and reasonable accessibility for the small business user, in mind. While very large hard disks are now available on store shelves, there is a high percentage of machines in use by small business which have hard drives which do not exceed 240 MB. Imposing a minimum burden of 18 MB on such machines, even before a single application is prepared and saved, is an excessive burden to impose on small business.

The program is made available only electronically. The program is placed on the Internet as a single file, more than seven megabytes in length. The availability of the program only by dial-up telephone connection has two adverse results for small business. The first result is that it takes a long time to download the file. In SBT's experience, using a 28.8 kbps modem and a local telephone number connection to the Internet, one hour and 38 minutes was required to download the program. The second result is that the program, once downloaded, is so large that it cannot be copied to a standard floppy disk and placed on multiple computers. Rather, it is necessary that each computer on which the program will be placed obtain the program from the

Internet, at a cost of more than an hour and a half for each machine on which it is to be used. For small businesses which pay for Internet service on a time sensitive basis, the cost is unduly high, solely as a result of the Commission's decision to distribute the program only electronically and only in one huge file. In addition to electronic means of distribution, the Commission should provide more traditional means of distributing its programs for use by the general public, such as on floppy disk on and CD-ROM.

The program cannot be used without first dialing into the Commission's 900 Service number, because the program expects to be backloaded from the Commission's computer before it is used. The Commission has not made clear whether that contact is billed at \$2.30 per minute, regardless of whether the person files an application or not. Further, the necessity of using the program only on a computer which is capable of dialing into the Commission's computer means that small business cannot use a secondary, non-interconnected computer to prepare an application, copy the information to a floppy disk, and later send the information to the Commission on a different computer. This means that a small business cannot, for example, have a receptionist/typist prepare an application unless that person's computer meets all of the high specifications established by the Commission. Accordingly, SBT anticipates small business will be reluctant to use the program. To better meet the needs of small business, the Commission should design its programs so that they can be used on low level machines, and, in particular, can be used to prepare applications on machines which are not interconnected.

The Commission should revisit the matter of charging for use of the application data base. The charge of \$2.30 per minute, which is the same, regardless of the resources of the user, is unduly burdensome for small business. Large businesses, such as major manufacturers, can avoid the per minute charge by employing personnel at the Commission's Gettysburg office, but small business cannot afford the cost of maintaining such a personal presence.

Dial-up access to the data base should, in time, conserve on the human resources which the Commission must allocate to responding to status requests from the public. For that reason, charging the public for dial-up use of the data base seems akin to the questionable practice of some telephone companies of charging a premium for Touch Tone™ dialing. When the telephone subscriber uses tone dialing, rather than rotary dialing, the call is set up more quickly and at lower cost for the telephone company. Nevertheless, some telephone companies charge a premium for tone dialing, as well as take the benefit of more efficient use of their resources. Because widespread use of the data base on a dial-up basis would save the Commission a great deal of resources, compared to the current and projected personnel costs of responding to such requests, the Commission should consider making access to the data base available on a dial-up basis at no charge to the public. In that way, the more that the public is induced to use the dial-up data base, the more that the Commission should save of its scarce, budgeted resources.

## **Operational Uncertainty**

Small operators are required to make the most of their limited investments. As stated *supra*, small operators require rapid profitability due to their inability to survive periods of loss. Accordingly, small operators require certainty in equipment, system design and licensing. If any of these elements are threatened, the small operator has limited resources to battle the threat or modify its system to avoid substantial challenges. For example, the destruction of a key component of a small operator's system by lightning strike can create a devastating loss of revenue from which the small operator may not be able to survive. If telephone line costs are suddenly raise, the radio system may quickly become uneconomical to operate. Finally, if the small operator is precluded from engaging in natural growth either by application freezes or forced frequency migration, the small operator's future is endangered.

Although the agency cannot prevent acts of God, it certainly can prevent precipitous regulatory actions that threaten the viability of small operators through hastily imposed freezes and frequency migrations calculated to assist in the construction of ever bigger telecommunications systems. The agency appears to be caught in a dilemma between support of emerging technologies and protecting the existing investment of small incumbent operators. Thus far, the agency's solution has been wholly in favor of the largest companies touting the newest technology. Less concern has been expended for the effect on small business, local governments and affected consumers. For example, the Commission's actions regarding PCS and ESMR suggest that "digital is better" and "interconnected digital is best." Yet, the market

demonstrates that millions of consumers are quite content with the low cost, efficient operations from traditional analog dispatch services.

To make way for the newest, emerging technologies, which the agency has most often determined shall be licensed on a large geographic scale, the Commission declares that the public interest requires that the new equipment must come to market at any cost. The Commission even goes so far as to involve itself in private contractual matters, declaring what is good faith negotiations between licensees versus that behavior which is deemed to be bad faith. Most conspicuous is the agency's determination that persons who are willing to give up traditional modes of operation to accommodate the newest technology are deemed to be good faith regulatees. Those that resist are deemed to be acting in bad faith. What the agency does not recognize, however, is that a small business can negotiate itself out of existence while attempting to comply with the agency's "good faith" standards.

These past decisions of the Commission have provided an impression that the agency is interested in new technology provided that the U.S. Treasury is paid handsomely for the spectrum. What the agency has not shown is a recognition that small business is able and willing to employ the newest technology in the operation of its facilities, provided that it is not required simultaneously to pay exorbitant prices at spectrum auctions and then absorb the cost of construction of systems over huge geographic areas. Therefore, the issue is not whether new technology will be used. History amply demonstrates that new, useful technology will always come to the fore. The question is whether the agency's policies will allow small business to

benefit from new technology and compete in markets which are presently reserved only to auction winners.

Along the river of the telecommunications industry, the agency has granted "most favored" status to those persons who can afford to construct large marinas for the docking of yachts. Sport fisherman are asked to move downstream. Small dockowners are required to bid for landing rights or trade their position on the bank for less desirable locations. Commuters who rely on simple ferrymen are required to take services from the marina owners while they are told that the ride on the yachts is well worth the additional cost. Industrial barges are told not to land or to seek service from the cartel of marina owners. Incrementally, the smaller operators are forced to move or to limit their business, paying taxes each step of the way. Even local governments are told that their future lies with the large marina owners, until new, expensive standards are created that preclude participation by all but the most wealthy. Local governments are even prevented from regulating the marinas by federal preemption. And with each new regulation, the agency sets higher and higher thresholds for participation that ignores the continued existence of local governments, ferrymen, small dockowners, and their customers, who cannot afford to bid for better landing rights.

What the agency is forgetting is that business grows by natural evolution, small to medium to large. A business that is making a million dollars annually in revenues cannot logically be required to invest ten times that amount for the privilege of someday being larger. But the agency's recent actions suggest that the Commission believes that such a growth spurt



is possible and prudent. The Commission's actions state that for a licensee to be assured of continued use of its licensed facilities and future growth of its business, it must be prepared to purchase the right and the obligation to expand its business across large geographic areas. In effect, the Commission is requiring that small business have the capacity to spend money like a large business. This is not only illogical, it is economically impossible. The only way that such a thing can occur is if the agency, like it did for the PCS Block C auctions, creates so many loopholes in its definition of small business that entities with merely the appearance of small size can leverage their alleged status to receive substantial financing from large multi-billion dollar partners. This is, of course, a sham.

Each agency action of this kind increases the threat to small business that its licenses will be used to forward another Commission auction agenda. Each such auction results in small business being denied access to another portion of the radio spectrum. And every time the Commission sets such standards it is stating, in effect, "this industry is to be reserved for only the largest entities." SBT implores the Commission to reverse this trend and provide additional opportunities for small business growth and development.

The Congress of the United States did not require use of auctions for all licensing. Nor did the Congress preclude the Commission's use of traditional licensing methods of first come first served, lotteries, or comparative hearings. In fact, Congress provided an entire quiver of licensing arrows to the agency. It is time that the Commission consider whether in its rush to complete its task of licensing PCS and other regional systems, it has sacrificed too much of the

energy of small business and has threatened the hard paid costs of independent entrepreneurs, to achieve illusory victories and large auction payments.

### SMALL BUSINESS SURVEY

As suggested in its NOI, SBT conducted a survey to determine the attitudes, perceptions and responses of persons from whom the agency articulated a desire to hear. SBT sent more than 10,000 surveys to persons throughout the telecommunications industry to measure the barriers to small business access and to discover the feelings of licensees regarding the Commission's actions and the representation of the industry associations. Although most of the responses were not startling to SBT, perhaps the responses will be instructional to the agency.

#### **Identity of the Respondents**

The age of the responding companies varied widely, from more than fifty years old to less than three years. The vast majority of respondents had fewer than 20 employees and made less than one million dollars in annual revenue. Yet, most of the respondents reported operating greater than 20 transmitters. The types of telecommunications businesses in which the respondents operated also varied widely, including paging, towers, SMR, IMTS, resale, cellular, microwave and RCC, with more than seventy-five percent reporting that they offered some form of two-way service.

When asked what the agency could do to help them, almost all stated a need for additional spectrum. Many requested that the Commission end all application freezes,

particularly the one at 800 MHz. Several criticized application mills, speculators and frequency warehousing by large companies.

### **FCC Report Card**

When asked about the actions taken by the FCC, the respondents were quite critical of the agency's assistance of small business. For example, the following statistics gauge the view of the respondents:

- \* Nearly 80% stated that the FCC rules never or rarely help small business.
- \* Approximately 75% stated that the FCC has never or rarely helped their business grow.
- \* Over 75% stated that the FCC never or rarely takes into consideration their needs.
- \* And 80% of the respondents stated that the FCC rules always help large business.

The respondents' answers to the other questions also point out the public perception of the agency's efforts. Most thought the agency was inefficient, though sometimes responsive. There was generally favorable impression of the frequency coordination system, although a large majority stated that the application processing methods are not evenly enforced. Few supported lotteries, but more supported comparative hearings. Although 38% believed that the FCC sometimes corrects its mistakes, the majority believed that correction was a distinct rarity. In sum, the respondents appeared distrustful of the Commission and its efforts on behalf of small business.

## Association Report Card

Getting small business' message to the Commission has often been a problem. Even associations which appear to speak on behalf of small business can have their agenda overwhelmed by large dues paying members. In fact, the survey showed that the overwhelming reasons given by respondents for discontinuing their membership with associations is the cost of membership and the perception that an association was only forwarding the interests of its largest members.

The survey asked whether the respondent believed that certain associations represented their interests. The associations listed were PCIA, ITA, AMTA, SBT, APCO, CTIA, NAB, ARRL and other. SBT received the highest marks, but its construction of the survey makes these responses somewhat dubious. However, SBT does note that four percent of the respondents rejected any representation by SBT of their interest.<sup>30</sup> Among the remainder, NAB and CTIA got the lowest marks. This is wholly expected considering the primary constituency of these groups. Among the remainder, ITA showed the most solid support, followed by APCO, then PCIA, then AMTA.

Finally, the respondents were asked of which associations had they formerly been a member. The leaders in lost members among the respondents was far and away AMTA and PCIA. The reasons given for discontinuing membership were typically the high cost of dues and

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<sup>30</sup> It should be recalled, however, that the survey was sent to thousands of non-SBT members and the vast majority of the respondents are not SBT members.

reduced representation of the respondent's interests. In fairness, among the respondents, PCIA continued to claim a large membership among respondents, as did ITA.

### **Barriers To Market Entry**

Survey respondents were asked to respond to 37 possible barriers to market entry to determine whether they had experienced problems from each in the operation of their business. Here are, by rank, the ten greatest problems noted as suffered by respondents in accessing the market.

- |                                     |   |
|-------------------------------------|---|
| 1. Initial Financing                | 6. Speculator Licensing/Application Mills |
| 2. Delays in Application Processing | 7. Engineering Costs                      |
| 4. Spectrum Scarcity                | 8. Access to New Technology               |
| 4. Legal Costs                      | 9. Borrowing Terms                        |
| 5. Auction of Spectrum              | 10. Price Competition                     |

To further respond to the Commission's inquiry within the NOI, 28% of the responses stated that some barrier to entry had been experienced due to the respondent's status as a woman or a minority. Accordingly, the Commission's past statements which suggest that prejudice is not experienced by industry participants arising out of their minority/female status is not wholly accurate. One respondent told that she was unable to secure a bank loan to participate in the 900 MHz SMR auction because the bank officer assumed that a woman would "go wild" in an auction setting. A male investor in her company was, however, able to secure the loan for the corporation of which she is president.

## **Survey Summary**

It is apparent that the respondents to the survey are largely unhappy with the treatment of small business by the agency and feel thwarted in their efforts to compete effectively. Although some of the problems experienced are outside of the direct jurisdiction of the Commission, many barriers exist for which the agency is primarily responsible. The agency created application freezes and should take responsibility for delays in application processing. The agency dictates the method of licensing to be employed and chooses whether small business will be an active participant in future auctions by the creation of auction rules. Finally, the agency can create access to new technology by small business simply by creating an environment which invites small business participation in bringing uses of new technology to market. It is apparent that the respondents desire positive steps by the Commission. It is also apparent that they are not optimistic that the agency will actually assist them. That perception is most unfortunate and should be immediately rectified.


## **CONCLUSION**

The Commission has presented to itself an opportunity by its issuance of this NOI. The information gathering process could be a mere placebo, enabling disgruntled persons to blow off steam with no actual tangible progress to be initiated in protecting the future and the investment of small business. Such use would be a terrible waste of the considerable effort which SBT and other commenters have expended in responding. On the other hand, this process may prove to be a beginning in shifting the considerable tide of regulation to once again recognize the need for small business energies and the entrepreneurial spirit it represents. After all, A T & T was started by an underfinanced, overworked, small businessman with a considerable dream.

SBT would like to thank the Commission for the opportunity to express its interests and views, including the views of its members. Although there is insufficient time to produce a comprehensive set of comments that deals with all barriers to market entry that confront small business, SBT trusts that its efforts herein will assist in providing the Commission with a much needed oversight and a bit of self-examination. The criticism contained herein is intended to be constructive in hopes that a vibrant dialogue will grow, allowing small business concerns to be better articulated to and forwarded by the Commission. SBT stands ready to assist the Commission in making the hard decisions ahead to assure that in our collective zeal to move forward, we do not forget that the rising tide of the industry's fortunes must lift all the boats and not just the largest vessels.

Respectfully submitted,  
SMALL BUSINESS IN TELECOMMUNICATIONS

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Dated: August 21, 1996

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